



**Proposed use of OES residual
funds to offset RRCEA program
fees for ITT/AV producers**

Consultation Report

January 5, 2023

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Introduction and context

This consultation report summarizes the feedback received by the Resource Productivity and Recovery Authority (RPRRA, or the Authority) on its proposed use of the Ontario Electronics Stewardship (OES) residual funds to offset *Resource Recovery and Circular Economy Act, 2016* (RRCEA) program fees for information technology, telecommunications, audio-visual (ITT/AV) producers.

In February 2018, the Minister of the Environment, Conservation and Parks directed the Waste Electrical and Electronic Equipment (WEEE) Program and the Ontario Electronics Stewardship (OES) to be wound up, including a requirement that the wind up plan shall set out a proposal to deal with any remaining residual funds.

The OES wind up plan (WUP) states that residual funds remaining in OES after wind-up activities are completed will be transferred to the Authority to offset RRCEA Registry-related expenses.

The OES WUP was conditionally approved by the RPRRA Board of Directors on August 16, 2019. The conditions include: “Regarding OES’s recommendation that remaining residual funds after program wind up be transferred to the Authority to offset Registry-related expenses, OES shall cooperate with the Authority in consulting with stakeholders on additional details about the transfer and how the funds will be used.”

The final wind-up of OES is dependent on the resolution of a claim the OES Liquidator filed with the Canada Revenue Agency (CRA) related to a Harmonized Sales Tax refund.

The OES Liquidator indicated that \$780K in residual funds could be made available for transfer to the Authority in 2023 as an interim step ahead of the resolution of the CRA claim and final liquidation of OES.

Between August 10 to September 2, 2022, the Authority consulted with stakeholders on its proposed use of OES residual funds to offset RRCEA program fees for ITT/AV producers. The Authority hosted a webinar on August 23 and presented the proposal, answered questions and gave stakeholders the opportunity to provide feedback. RPRRA sought feedback from stakeholders on how an interim transfer of OES residual funds to RPRRA could be applied to offset ITT/AV producer 2023 program fee rates, as well as how the remaining residual funds should be used to offset Registry-related expenses once OES has wound up.

This report details the Authority’s consultation process and the feedback received. All feedback received during the consultation period was considered when finalizing the decision on the use of OES residual funds. The Authority posted the consultation report to its website on January 5, 2023, and webinar participants, along with all registered ITT/AV producers, were notified the same day.

Questions about this report can be emailed to consultations@rpra.ca.

About RPRRA

The Authority is the regulator created by the Ontario government to enforce the requirements of the *Resource Recovery and Circular Economy Act, 2016* (RRCEA) and the *Waste Diversion Transition Act, 2016* (WTDA).

The RRCEA establishes a new resource management regime where producers are individually

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responsible and accountable for their products and packaging, recovering resources, and reducing waste. The WDTA allows for the continuation of waste diversion programs and sets out provisions to wind up those programs as directed by the Minister of the Environment, Conservation, and Parks.

Principles for public consultation

The Authority's consultations are guided by the following best practice principles developed by the Organization for Economic Cooperation and Development:

Inclusiveness and openness: *Engage broadly with a wide variety of stakeholders, provide clear and understandable information, and make the consultation process accessible, comprehensible, and responsive.*

Timeliness: *Engage stakeholders early before decisions are made and provide regular opportunities for engagement on key program and policy matters.*

Accessible and cost-effective: *Consider a variety of tools and methods to gather feedback that promotes efficient and cost-effective consultations.*

Balance: *Provide opportunities for diverse perspectives and opinions to be heard and considered.*

Transparent: *Record feedback, report back a summary to stakeholders, and synthesize feedback into programs and policies as appropriate.*

Evaluation: *Demonstrate the impact of public consultations on program delivery and policy development.*

Consultation

Process

The Authority's consultation on the proposed use of OES residual funds to offset RRCEA program fees for ITT/AV producers began on August 10, 2022 and ended on September 2, 2022.

On August 10, 2022, a [dedicated web page](#) was created on the Authority's website with background information on the consultation, including instructions on how to submit feedback and participate in a webinar held on Tuesday, August 23, 2022. During the webinar, RPRA presented the proposal, answered questions, and gave stakeholders the opportunity to provide feedback.

The Authority also posted a latest news item announcing the start of the consultation period and linking to its consultation web page.

What we heard

RPRA received three written submissions of feedback during the consultation period. 32 people registered for the Authority's webinar held on August 23. The webinar recording and presentation slides can be found on the [Authority's website](#).

For the list of stakeholders that submitted feedback, please see [Appendix A](#).

The feedback received is summarized below.

Interim transfer of residual funds

Feedback from Electronics Product Stewardship Canada (EPSC), the industry association representing many large electronics manufacturers, indicated a preference that RPRA not proceed with an interim transfer of residual funds to offset 2023 RRCEA Program Fees for ITT/AV producers. Instead, EPSC prefers that RPRA wait until all OES financial matters have been resolved and the final amount of residual funds is known before the funds are transferred to RPRA to offset fees for ITT/AV producers.

Application of residual funds to offset RRCEA Program Fees

EPSC, and other electronics producers who responded on their own behalf, indicated a preference for the entire amount of transferred residual funds be applied to reduce RRCEA Program fees for ITT/AV producers to \$0 until the funds are exhausted, as opposed to the proposed approach effectively freezing fee rates at a predictable level over a longer period.

RPRA received feedback from the Retail Council of Canada (RCC) highlighting that applying the OES residual funds to offset RRCEA Program Fees for ITT/AV producers may not result in all former OES stewards receiving benefit in proportion to each steward's historical contribution.

The definition of an ITT/AV producer under the RRCEA is not identical to the definition of an EEE steward under the *Waste Diversion Transition Act, 2016*, meaning that newly obligated producers may receive a benefit from the application of residual funds to offset ITT/AV program fees, while those who are no longer obligated will receive no benefit despite historical contribution to the OES program.

RCC has therefore suggested that the OES residual funds be returned directly to OES stewards based on historical contributions into the OES program.

No stakeholder feedback was received on elements of the proposal related to how the received funds would be segregated (in a low-risk, interest-bearing account) and amounts remaining publicly disclosed by the Authority (audited financial statements of RPRA's annual report).

All stakeholder feedback received during the Authority's consultation on the proposal was communicated to the OES Liquidator.

Evaluation

To help the Authority improve future consultations and communications, webinar participants were invited to complete a short feedback survey during the consultation webinar. Of the 19 webinar attendees, 11, or 58%, completed the survey.

In response to the question, "Overall, how would you rate the consultation?", 91% of respondents ranked the session "Good" or "Excellent" (based on a scale of Excellent, Good, Average, Fair, Poor).

73% of respondents said the information provided by the presenter was "Extremely or Very helpful", and 27% said it was "Somewhat helpful". 100% of respondents ranked the presentation slides "Good" or "Excellent". 91% of respondents ranked the question and answer portion "Good" or "Excellent".

Conclusion

The Authority considered all stakeholder feedback received during the consultation as it determined how to apply the OES residual funds to offset RRCEA Program Fees for ITT/AV producers once able to be transferred to RPRA.

Based on the feedback received during the consultation period, RPRA will take the following steps:

1. RPRA will defer the proposed interim transfer of OES residual funds to RPRA.
2. Once the OES Liquidator has resolved all outstanding financial matters and the full amount of remaining residual funds is known, the full amount of OES residual funds will be transferred to RPRA to reduce RRCEA Program Fees for ITT/AV producers to \$0.
3. Remaining funds will be applied in the same manner to future payment cycles until the residual funds are exhausted.

As noted above, RCC, the industry association representing Canadian retailers, expressed opposition to the proposed approach. RCC noted that applying the OES residual funds to offset RRCEA Program Fees for ITT/AV producers may not result in all former OES stewards receiving benefit in proportion to each steward's historical contribution. RCC recommended that the OES residual funds be returned directly to OES stewards based on historical contributions into the OES program. This recommendation, however, is not consistent with the approved OES WUP. The complexity of the WEEE Program operated by OES and its system of remitters and sub-remitters create significant challenges in determining each stewards' historical contribution accurately, which led to the approach described in the approved OES WUP. Changes to the OES WUP were outside of the scope of this consultation.

Appendix A: Stakeholders that submitted written feedback

Written submissions were received from the following stakeholders:

- Electronics Product Stewardship Canada
- Retail Council of Canada
- Trends Electronics International Inc.